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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,710

10/28/2003

Henry E. Juskiewicz

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WADDEY & PATTERSON, P.C.
1600 DIVISION STREET, SUITE 500
NASHVILLE, TN 37203

EXAMINER

DONELS, JEFFREY

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

07/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,710

Applicant(s)

JUSZKIEWICZ ET AL.

Examiner

Jeffrey Donels

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/30/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,7,30-32 and 57-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 61 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,32,57 and 60 is/are rejected.
- 7) ☒ Claim(s) 30,31,58 and 59 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The indicated allowability of claims 1-4,6,7,30-32,57-61 is withdrawn in view of newly discovered prior art; new grounds of rejection follow.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4,6,7,32,57,60 are rejected under 35 U.S.C. 102(b) as being fully met by Schmidt et al (USP 6353174).

Schmidt et al discloses a method and apparatus for facilitating group musical interaction over a network which comprises a plurality of audio devices 14, each of the devices including a device interface module 38 for communication of digital audio data (Col. 3 line 67) and control data (e.g. clock signals; Col. 11 lines 22-41; other control data is present, e.g. standard network protocols, but not shown) from at least one of the devices to at least one other of the devices; a universal data link 22 operatively connected to each of the device interface modules wherein each data link includes a conventional CAT5 network cable terminated by conventional RJ-45 connectors (as suggested by Col. 3 lines 3-14); the device interface modules and universal data links are operative in combination to

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connect the devices together in the system and provide full duplex communication (Col. 1 lines 49-52) of the digital audio data and control data between the devices.

Regarding Claim 2, Schmidt et al discloses that the devices may be connected through standard LAN links (Col. 3 lines 3-14) in a peer-to-peer fashion (Fig. 8) which reads on the claimed link.

Regarding Claim 3, Schmidt et al discloses that the devices may be connected in a network topology without a direct connection between devices (Fig. 1).

Regarding Claim 4, Schmidt et al discloses using standard LAN links, which reads on the claimed CAT5 network cable wire configuration.

Regarding Claim 6, Schmidt et al discloses that the audio devices comprise audio transducer devices 52,60.

Regarding Claim 7, Schmidt et al discloses that the audio devices further comprise system control devices 30.

Regarding Claim 32, Schmidt et al discloses that the functions performed by the audio devices may be shared by other audio devices connected to the system, i.e. the audio devices 14 are similar in function and design.

Regarding Claims 57,60 Schmidt et al discloses that the devices function on a standard network (Col. 3 lines 3-14), which is known to operate using data in big endian order.

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Allowable Subject Matter

Claim 61 is allowed.

Claims 30,31,58,59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rigstad and Hoffberg are further cited to show related teachings in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Donels whose telephone number is 571-272-2061. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jeffrey Donels
Primary Examiner
Art Unit 2837